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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

FERNANDO COTA,

Defendant and Appellant.

D069371

(Super. Ct. No. SCS276743)

APPEAL from a judgment of the Superior Court of San Diego County, Stephanie Sontag, Judge. Affirmed.

Patrick J. Hennessey, Jr., under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

A jury found Fernando Cota not guilty of burglary (Pen. Code, § 459)¹ but guilty of the lesser included offense of trespass (§ 602.5). The jury found true the allegation

¹ All further statutory references are to the Penal Code.

that a person authorized to be in the dwelling was present within the meaning of section 602.5, subdivision (b). The jury also found Cota guilty of possessing a concealed dirk or dagger (§ 21310). Cota admitted two prior prison convictions (§ 667.5, subd. (b)). The court initially sentenced Cota to the upper term of three years on the concealed dirk or dagger count and imposed two one-year terms for the admitted prison priors. However, at a later sentencing hearing on both the present case and trial court case No. SCS279566 (the subject of the appeal in this court's case No. D069049), the court vacated the sentence in case No. SCS276743 and resentenced Cota to one-third the midterm on the dirk or dagger count or eight months, consecutive to the sentence imposed in case No. SCS279566. Cota was given credit for 322 days of time served and ordered to pay a \$40 court security fee, a \$300 restitution fine, and a \$300 parole revocation fine, stayed pending successful completion of parole.

FACTS

The record does not include a reporter's transcript of the trial proceedings. According to the probation report, on January 1, 2015, at 2:06 a.m., police officers responded to a burglary in progress at the home of Emilio Perez. Perez told the officers that he awakened to find Cota standing inside his trailer. Cota stood motionless and Perez told his wife to call 911. Perez did not know Cota and did not give him permission to be inside the home. The officers arrested and searched Cota without incident. They recovered a seven and one-half inch fixed blade knife from inside his waistband.

DISCUSSION

Appellate counsel has filed a brief summarizing the facts and proceedings below but raising no specific issues or argument for reversal. Counsel has asked this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Counsel has not identified any possible issues under *Anders v. California* (1967) 386 U.S. 738. We offered Cota the opportunity to file a brief on his own behalf, and he has not responded.

Our review of the entire record under *Wende* and *Anders* has disclosed no reasonably arguable appellate issues. Appellate counsel has competently represented Cota on appeal.

DISPOSITION

The judgment is affirmed.

McCONNELL, P. J.

WE CONCUR:

BENKE, J.

HALLER, J.